



US Army Corps
of Engineers
Alaska District

Public Notice of Application for Permit

Regulatory Branch (1145)
CEPOA-CO-R
Post Office Box 6898
Elmendorf AFB, Alaska 99506-0898

PUBLIC NOTICE DATE: January 8, 2007
EXPIRATION DATE: January 22, 2007
REFERENCE NUMBER: POA-1990-592-Q
WATERWAY NUMBER: Lynn Canal 31

Interested parties are hereby notified that an application has been received for a Department of the Army (DA) permit for certain work in waters and navigable waters of the United States (U.S.) as described below and shown on the attached plan sheets.

APPLICANT: Coeur Alaska, Incorporated, 3031 Clinton Drive, Suite 202, Juneau, Alaska 99801-7106.

LOCATION: The work is proposed at the Kensington Mine, within the Lower Slate Lake basin. The mine site is within Section 1, T. 36 S., R. 61 E.; and Sections 10, 14, 15, 23 through 25, and 36, T. 35 S., R. 61 E., Copper River Meridian; USGS Quadrangle Juneau D-4; Latitude 58°46'56" N., Longitude 134°00'36" W.; north of Juneau, Alaska.

WORK: The applicant proposes to build the Western Interceptor Ditch within the lower Slate Lake basin. There would be a discharge of 28,800 cubic yards of fill material into wetlands for the road/ditch fill and for the topsoil stockpile also included as fill material within the total in wetlands. Some of these wetlands have already been mechanically land cleared, but not all. The topsoil would be placed in the already cleared wetlands. There would be mechanized land clearing in undisturbed wetlands above the cleared basin limit for a length of 1,600 feet with a variable clearing width dependent on the slope to place a road 30 feet wide with an upslope lined interceptor ditch, and a downslope topsoil stockpile. Approximately 4.5 acres of wetlands would be impacted by the proposal. An expedited review is requested to facilitate the required mobilization and extra time required for winter construction to complete the work by spring break up. Since all work in the Lower Slate Lake basin, except that necessary for stabilization and erosion protection, was halted by an August 24, 2006, injunction from the U.S. Court of Appeals for the Ninth Circuit, the proposed work must be consistent with the injunction now in effect.

PURPOSE: The applicant's purpose for the project is to complete a diversion ditch that would divert surface water from entering Lower Slate Lake. The diversion is proposed to divert a portion of the spring freshet (run off and snow melt) from entering Lower Slate Lake. The clean water would be diverted completely around Lower Slate Lake. The proposed ditch would reduce surface water inflow to the basin by 1,000 gallons per minute (gpm) up to 2,500 gpm based on the diversion ditch capture surface flow volume. The spring freshet is projected to release more water than can be currently pumped from Lower Slate Lake while maintaining State of Alaska Water Quality Standards (WQS) for discharge into Slate Creek. All proposed work would be in accordance with the attached plan, 2 sheets dated December 2006.

ADDITIONAL INFORMATION: A Department of the Army (DA) permit, identified as POA-1990-0592-M, Lynn Canal 31, was issued to Coeur Alaska, Incorporated, (Coeur) for the development of a mine and infrastructure for the Kensington Gold Mine. Prior to the Court's injunction, a temporary cofferdam was constructed across the outlet of Lower Slate Lake to facilitate construction of a permanent dam for a tailings storage facility (TSF). The cofferdam was not constructed due to the injunction. The temporary cofferdam was not designed for retention of the spring runoff and snow melt. Coeur Alaska, Inc. does not want to violate State WQS and has proposed the Western Interceptor Ditch to reduce the total amount of water that must be pumped from the lake, and to reduce the potential for the cofferdam breaching as water levels rise. The failure of the cofferdam, and the resultant sediment release downstream into Slate Creek, would violate State of Alaska WQS. Water in the lake cannot be continuously pumped without violating State WQS during high run off periods. Sediment loading of the lake takes place during rain or melt events causing turbid and sediment rich water which can not be pumped to Slate Creek without violating State of Alaska WQS.

The United States Forest Service (USFS), as the land manager, has already approved this proposed plan. All gravel would come from existing approved gravel and rock quarries on USFS land. No new DA permits are required for gravel removal from any water of the U.S.

The Final EIS for the Kensington Mine, Alternative C proposed a diversion ditch which was not selected as the preferred alternative. No Federal agency approved the Western Interceptor ditch in their Record of Decision for the Kensington Gold Mine Project.

The proposed diversion would reduce the volume of water entering the lake and thus reduce the volume of lake water requiring treatment and pumping. Flocculants are currently used to reduce turbidity levels prior to pumping and discharge. The pumping of Lower Slate Lake would continue when the lake water quality allows. Coeur proposes to continue to pump water out of Lower Slate Lake.

The problem results because Lower Slate Lake has become a sediment basin during the construction of the TSF. The permanent dam for the TSF was not constructed, and can not be finished because of the current injunction and court proceedings.

The proposed diversion ditch would not be required if a waiver or variance of State WQS was issued for the pumping of turbid water from Lower Slate Lake when the lake height met a critical level.

The proposed diversion ditch would also not be required if the planned Stage One Dam was allowed to be constructed. The footprint for the dam has already been cleared, grubbed, excavated, and cleaned down to bedrock.

Also, no DA permit is required for removal or repair of the cofferdam authorized by the suspended permit POA-1990-0592-M, if explicitly necessary for stabilization and sediment control at the Kensington Mine Site.

A DA permit modification would be required to place a spillway into the existing constructed cofferdam. A DA permit modification would also be required to reinforce and or line the cofferdam. The option for a spillway is only a viable option if a waiver or variance of State WQS is authorized for the discharge of turbid lake water.

Please contact the applicant, Mr. Luke Russell, Coeur Minerals, 505 Front Street Post Office Box 1, Coeur d'Alene, Idaho 83816-0316 or call Mr. Russell at 208-667-3511, for further information.

MITIGATION: The applicant looked at other alternatives and considers this design the only acceptable alternative for this project.

As a result of pre-application coordination, the applicant has incorporated into the proposed project, the following mitigation efforts to minimize and reduce impacts to the aquatic environment:

1. The diversion ditch is designed to easily be reclaimed in the event the court requires complete reclamation of the site. The topsoil will be stored down slope of the ditch for easy reuse. All un-vegetated soil will be kept on site and hydro-seeded in place to reduce on site erosion.
2. Coeur's Best Management Practices for this project include placing two strategically located settling ponds within the basin downstream of the road. Matting will be placed over highly mobile and erodible soils to reduce the sediment moving downslope into Lower Slate Lake.
3. The proposed diversion ditch will maximize the interception of runoff water and transport this water to an existing and previously constructed structure on site. The water from the new diversion ditch will flow by gravity into an existing concrete head gate located between Upper and Lower Slate Lakes. The two water diversions would then be co-mingled and routed in the existing High Density Polyethylene pipeline which takes the water around Lower Slate Lake.

WATER QUALITY CERTIFICATION: A permit for the described work will not be issued until a certification or waiver of certification as required under Section 401 of the Clean Water Act (Public Law 95-217), has been received from the Alaska Department of Environmental Conservation.

COASTAL ZONE MANAGEMENT ACT CERTIFICATION: Section 307(c)(3) of the Coastal Zone, Management Act of 1972, as amended by 16 U.S.C. 1456(c)(3), requires the applicant to certify that the described activity affecting land or water uses in the Coastal Zone complies with the Alaska Coastal Management Program. A permit will not be issued until the Office of Project Management and Permitting, Department of Natural Resources has concurred with the applicant's certification.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, reasons for holding a public hearing.

CULTURAL RESOURCES: There were multiple cultural sites identified within the Kensington Mine project area within the FEIS. However, no identified sites are within the diversion ditch disturbance area. No sites would be either indirectly or adversely affected by this project. This application is being coordinated with SHPO. Any comments SHPO may have concerning presently unknown archeological or historic data that may be lost or destroyed by work under the requested permit will be considered in our final assessment of the described work.

TRIBAL CONSULTATION: The Alaska District fully supports tribal self-governance and government-to-government relations between the Federal government and Federally recognized Tribes. This notice invites participation by agencies, Tribes, and members of the public in the Federal decision-making process. In addition, Tribes with protected rights or resources that could be significantly affected by a proposed Federal action (e.g., a permit decision) have the right to consult with the Alaska District on a government-to-government basis. Views of each Tribe regarding protected rights and resources will be accorded due consideration in this process. This Public Notice serves as notification to the Tribes within the area potentially affected by the proposed work and invites their participation in the Federal decision-making process regarding the protected Tribal right or resource. Consultation may be initiated by the affected Tribe upon written request to the District Engineer during the public comment period.

ENDANGERED SPECIES: The project area is within the known or historic range of the Stellar Sea Lion and the Humpback Whale. Preliminarily, the described activity will not affect threatened or endangered species, or their critical habitat designated as endangered or threatened, under the Endangered Species Act of 1973 (87 Stat. 844). This application is being coordinated with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). Any comments they may have concerning endangered or threatened wildlife or plants or their critical habitat will be considered in our final assessment of the described work.

ESSENTIAL FISH HABITAT: The proposed work is being evaluated for possible effects to Essential Fish Habitat (EFH) pursuant to the Magnuson Stevens Fishery Conservation and Management Act of 1996 (MSFCMA), 16 U.S.C. et seq and associated federal regulations found at 50 CFR 600 Subpart K. The Alaska District includes areas of EFH as Fishery Management Plans. We have reviewed the January 20, 1999, North Pacific Fishery Management Council's Environmental Assessment to locate EFH area as identified by the National Marine Fisheries Service (NMFS). We have determined that the described activity will not affect EFH.

SPECIAL AREA DESIGNATION: The project area is within the Tongass National Forest.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts, which the proposed activity may have on the public interest, requires a careful weighing of all the factors that become relevant in each particular case. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. The outcome of the general balancing process would determine whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur. That decision should reflect the national concern for both protection and utilization of important resources. All factors, which may be relevant to the proposal, must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. For activities involving 404 discharges, a permit will be denied if the discharge that would be authorized by such permit would not comply with the Environmental Protection Agency's 404(b)(1) guidelines. Subject to the preceding sentence and any other applicable guidelines or criteria (see Sections 320.2 and 320.3), a permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the described work, with the reference number, should reach this office no later than the expiration date of this Public Notice to become part of the record and be considered in the decision. Please contact Mr. Victor Ross at 907-753-2712 or by e-mail at victor.o.ross@poa02.usace.army.mil if further information is desired concerning this notice.

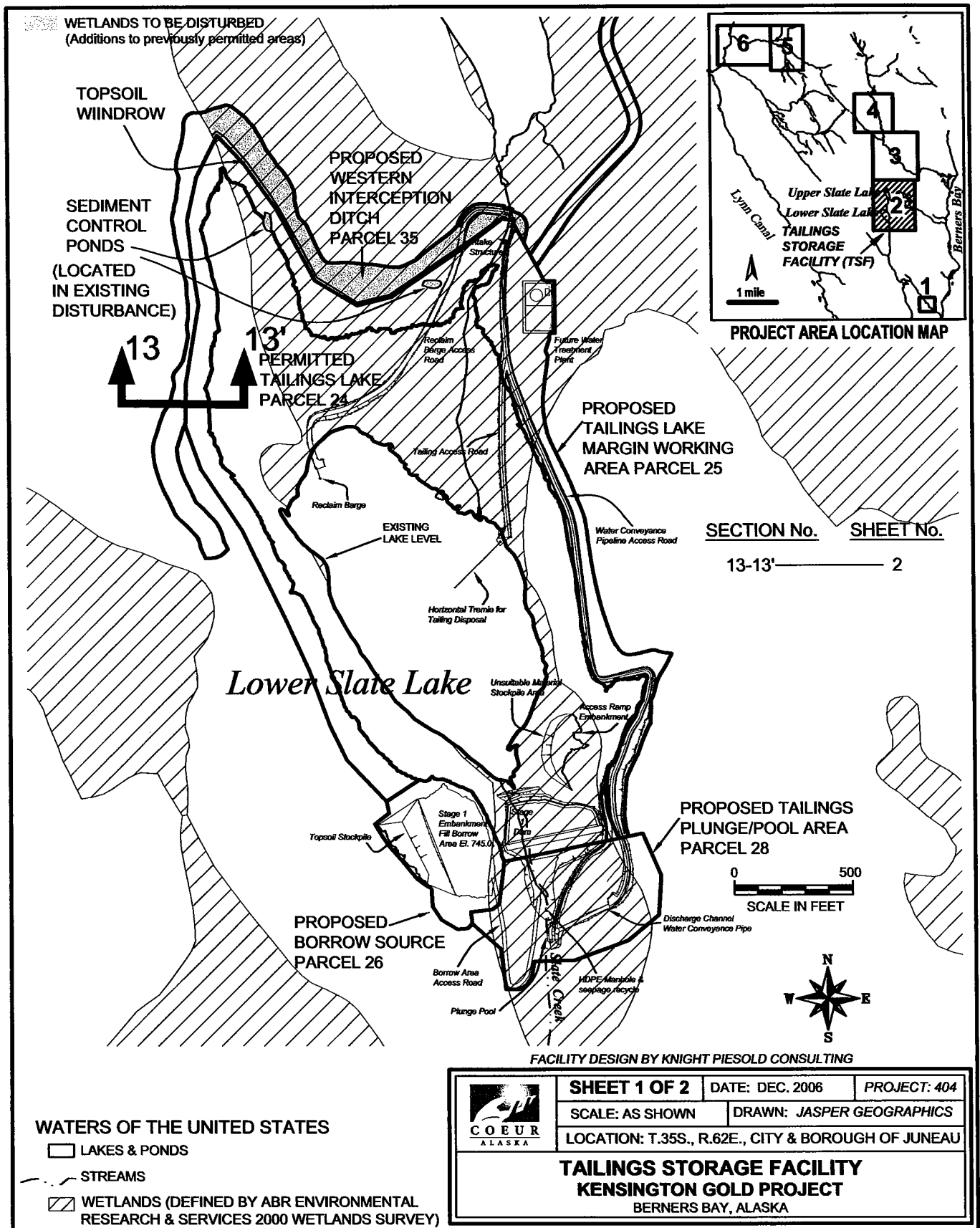
AUTHORITY: This permit will be issued or denied under the following authorities:

(X) Discharge dredged or fill material into waters of the United States - Section 404 Clean Water Act (33 U.S.C. 1344). Therefore, our public interest review will consider the guidelines set forth under Section 404(b) of the Clean Water Act (40 CFR 230).

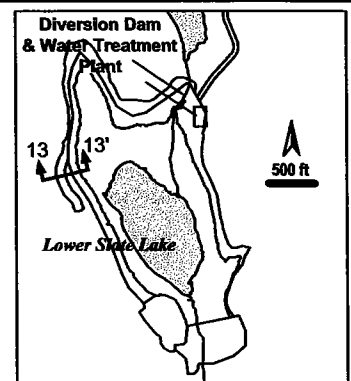
A plan, Notice of Application for Certification of Consistency with the Alaska Coastal Management Program, and Notice of Application for State Water Quality Certification are attached to this Public Notice.

District Engineer
U.S. Army, Corps of Engineers

Attachments

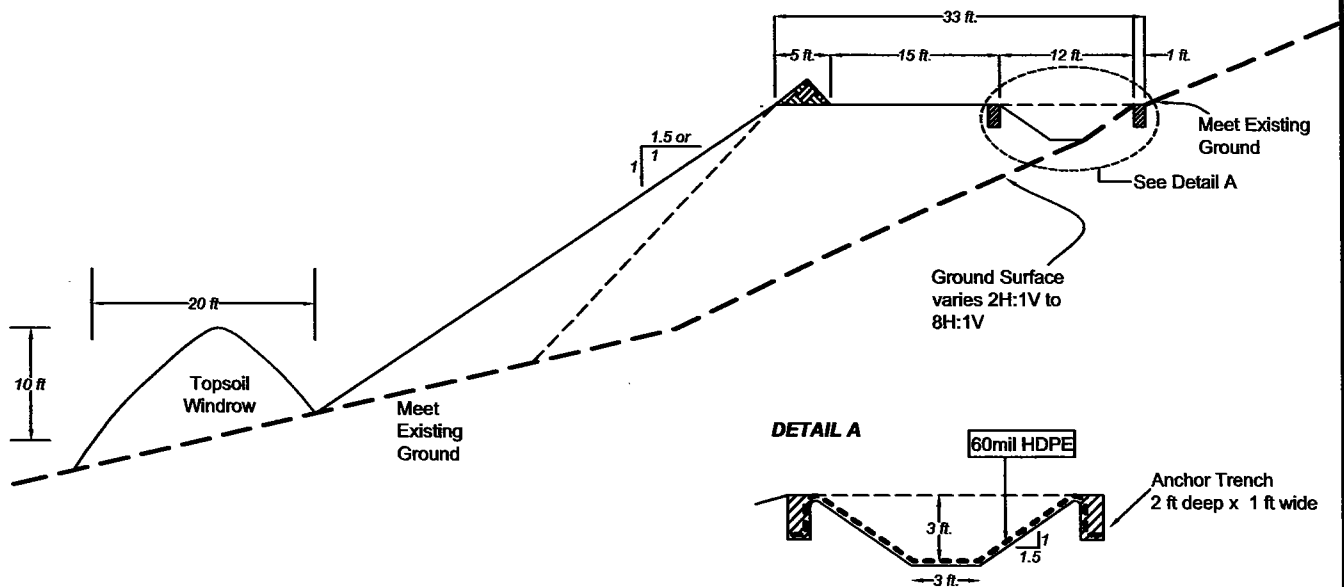


POA-1990-592-Q




**AREA 2 LOCATION
MAP**

**WESTERN INTERCEPTION DITCH
AND ROAD TYPICAL SECTION 13-13'**



Source: Knight Piesold

This is a typical cross-section across the Western Interception Ditch, parcel 35. Only the eastern half of the ditch crosses wetlands.

 COEUR ALASKA	SHEET 2 OF 2		DATE: DEC. 2006	PROJECT: 404
	SCALE: AS SHOWN		DRAWN: JASPER GEOGRAPHICS	
	LOCATION: T.35S., R.62E., CITY & BOROUGH OF JUNEAU			
	CROSS-SECTION 13-13' KENSINGTON GOLD PROJECT BERNERS BAY, ALASKA			

POA-1990-592-Q

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES OFFICE OF PROJECT MANAGEMENT AND PERMITTING

OFFICE OF PROJECT MANAGEMENT AND PERMITTING
POST OFFICE BOX 111030, MS 1030
JUNEAU, ALASKA 99801-1030
PHONE: (907) 465-3562/FAX: (907) 465-3075

NOTICE OF APPLICATION FOR CERTIFICATION OF CONSISTENCY WITH THE ALASKA COASTAL MANAGEMENT PROGRAM

Notice is hereby given that a request is being filed with the Office of Project Management and Permitting for a consistency determination, as provided in Section 307(c)(3) of the Coastal Zone Management Act of 1972, as amended [16 U.S.C. 1456(c)(3)], that the project described in the Corps of Engineers Public Notice No. **POA-1990-592-Q, Lynn Canal 31**, will comply with the Alaska Coastal Management Program and that the project will be conducted in a manner consistent with that program.

This project is being reviewed for consistency with the Alaska Coastal Management Program. Written comments about the consistency of the project with the applicable ACMP statewide standards and district policies must be submitted to the Office of Project Management and Permitting. For information about this consistency review, contact OPMP at (907) 269-7470 or (907) 465-3562, or visit the ACMP web site at <http://www.gov.state.ak.us/gdc/Projects/projects.html>.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER

401 Certification Program

Non-Point Source Water Pollution Control Program

NOTICE OF APPLICATION FOR STATE WATER QUALITY CERTIFICATION

Any applicant for a federal license or permit to conduct an activity that might result in a discharge into navigable waters, in accordance with Section 401 of the Clean Water Act of 1977 (PL95-217), also must apply for and obtain certification from the Alaska Department of Environmental Conservation that the discharge will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. By agreement between the U.S. Army Corps of Engineers and the Department of Environmental Conservation, application for a Department of the Army permit to discharge dredged or fill material into navigable waters under Section 404 of the Clean Water Act also may serve as application for State Water Quality Certification.

Notice is hereby given that the application for a Department of the Army Permit described in the Corps of Engineers' Public Notice No. POA-1990-592-Q, Lynn Canal 31, serves as application for State Water Quality Certification from the Department of Environmental Conservation.

After reviewing the application, the Department may certify that there is reasonable assurance that the activity, and any discharge that might result, will comply with the Clean Water Act, the Alaska Water Quality Standards, and other applicable State laws. The Department also may deny or waive certification.

Any person desiring to comment on the project with respect to Water Quality Certification may submit written comments within 30 days of the date of the Corps of Engineer's Public Notice to:

Department of Environmental Conservation
WQM/401 Certification
410 Willoughby Avenue
Juneau, Alaska 99801-1795
Telephone: (907) 465-5321
FAX: (907) 465-5274